

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

TYRONE McKEOWN,)
)
Plaintiff,)
)
v.) No. 3:08-CV-101
) (PHILLIPS/GUYTON)
)
MICHAEL J. ASTRUE,)
Commissioner of Social Security,)
)
Defendant.)

MEMORANDUM AND ORDER

The Court has the power “to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the [Commissioner], with or without remanding the cause for a rehearing.” Shalala v. Schaefer, 509 U.S. 292, 296 (1993); Melkonyan v. Sullivan, 501 U.S. 89, 97-98 (1991). The parties have submitted a Joint Motion for Entry of Judgment with Remand under Sentence Four of 42 United States Code Section 405(g) [Doc. 16], and said motion is presently pending before this Court. The parties move for a remand, which would allow the Administrative Law Judge (“ALJ”) to obtain additional evidence and further evaluate Plaintiff’s mental impairments. This Court finds the Joint Motion [**Doc. 16**] is well-taken, and accordingly, it is **GRANTED**.

On remand, the Appeals Council will remand the case to the ALJ to address all of Plaintiff’s impairments, including his mental impairments. The ALJ will obtain a consultative mental evaluation of Plaintiff and allow the Plaintiff the opportunity to provide further medical evidence. If the ALJ can render a decision that fully favors the Plaintiff upon review of the updated

record and without additional testimony, then such decision shall be entered without hearing. Otherwise, the ALJ will conduct a supplemental hearing where Plaintiff will be allowed to present any additional evidence and will be afforded the opportunity to testify. The ALJ will reevaluate Plaintiff's residual functional capacity and provide the rationale, including specific references to the record, for the decision. If necessary, the ALJ will obtain supplemental testimony from a vocational expert to assess Plaintiff's ability to perform past relevant work or the availability of work in significant numbers in the national economy in light of Plaintiff's limitations. The ALJ will then issue a new decision.

The Clerk of the Court will enter a separate judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

ENTER:

s/ H. Bruce Guyton
United States Magistrate Judge